

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Stephanie Mleczkowski	Team: Team # 3	CCRB Case #: 201214287	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 12/03/2012 2:39 AM	Location of Incident: Mount Hope Place and the Grand Concourse	Precinct: 46	18 Mo. SOL 6/3/2014	EO SOL 6/3/2014	
Date/Time CV Reported Mon, 12/03/2012 11:43 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Mon, 12/03/2012 11:43 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Anthony Donato	07509	948904	046 PCT
2. POM David Vazquez	24324	942657	046 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. Officers			Unknown
2. POM David Blumenberg	01858	946791	046 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Anthony Donato	Abuse: PO Anthony Donato stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
B.POM David Vazquez	Abuse: PO David Vazquez stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
C.POM Anthony Donato	Abuse: PO Anthony Donato stopped § 87(2)(b) and § 87(2)(b)	
D.POM David Vazquez	Abuse: PO David Vazquez stopped § 87(2)(b) and § 87(2)(b)	
E.POM Anthony Donato	Abuse: PO Anthony Donato frisked § 87(2)(b)	
F.POM Anthony Donato	Abuse: PO Anthony Donato searched § 87(2)(b)	
G.POM David Vazquez	Abuse: PO David Vazquez searched § 87(2)(b)	
H.POM Anthony Donato	Abuse: PO Anthony Donato threatened to arrest § 87(2)(b)	

Case Summary

§ 87(2)(b) filed this complaint with the Civilian Complaint Review Board via an online complaint form on December 3, 2013 (4A-4F), which was forwarded to the CCRB on the same date (encl. 3A-3C).

On December 3, 2012 at 2:39 a.m., § 87(2)(b) and § 87(2)(b) were passengers in a cab in the vicinity of Mount Hope Place and the Grand Concourse in the Bronx when that vehicle was pulled over by a marked police van. The following allegations resulted:

- **Allegation A-Abuse of Authority: PO Anthony Donato stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.**
- **Allegation B- Abuse of Authority: PO David Vazquez stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.**
- **Allegation C-Abuse of Authority: PO Anthony Donato stopped § 87(2)(b) and § 87(2)(b)**
- **Allegation D-Abuse of Authority: PO David Vazquez stopped § 87(2)(b) and § 87(2)(b)**
- **Allegation G- Abuse of Authority: PO David Vazquez searched § 87(2)(b)**
- **Allegation H- Abuse of Authority: PO Anthony Donato threatened to arrest § 87(2)(b)**
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
- **Allegation E- Abuse of Authority: PO Anthony Donato frisked § 87(2)(b)**
- **Allegation F- Abuse of Authority: PO Anthony Donato searched § 87(2)(b)**
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

§ 87(2)(b) rejected the opportunity to mediate his complaint during his sworn statement conducted on January 7, 2013 § 87(2)(b)

Results of Investigation

Civilian Statements:

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) is a black man who was § 87(2)(b) old at the time of the incident. He is 5'10" tall and weighs 150 pounds. § 87(2)(b) has black hair and brown eyes.

CCRB Testimony:

§ 87(2)(b) provided a telephone statement to the CCRB on January 7, 2013 (encl. 5A) and was interviewed at the CCRB on February 19, 2013 (encl. 6A-6G). § 87(2)(g)

On December 3, 2012 at approximately 2:39 a.m., § 87(2)(b) his girlfriend § 87(2)(b) and his friend § 87(2)(b) were passengers in a livery cab that was driving in the vicinity of Mount Hope Place and the Grand Concourse in the Bronx. § 87(2)(b) wore a hooded olive green pea coat from the Gap, a blue button down shirt, black jeans, a black and green New York Jets hat and black Adidas sneakers with a white design on the sole of them. § 87(2)(b) did not have the name or any contact information for the driver of the vehicle. Approximately forty seconds into the cab ride, the cab was pulled over by a marked police van.

An officer, identified via investigation as PO Anthony Donato of the 46th Precinct, walked over to the cab, asked the driver if he was okay and requested his identification, which he furnished. PO Donato was a white man, approximately thirty years old, 5'9"-5'11" tall, had black hair cut in a military style and a thick build. An additional officer, identified via investigation as PO David Vazquez of the 46th Precinct, also approached the cab. PO Vazquez was a dark-skinned man, 5'7"-5'8" tall, wore glasses, had black hair and a slim build. Both officers wore dark blue uniforms.

After a minute and a half, the officers returned to the cab and PO Donato returned the driver's identification card. PO Donato then requested the identification cards of § 87(2)(b) and § 87(2)(b) and they furnished this documentation. PO Donato and PO Vazquez returned to their RMP with the identification cards.

A minute later PO Donato returned to the cab, directed § 87(2)(b) and § 87(2)(b) to exit the vehicle and they complied with that request. The civilians stood with their backs facing the taxi's bumper. § 87(2)(b) then noticed an additional officer, who remains unidentified. § 87(2)(b) described this officer as a man in his mid-thirties or forties, had facial hair, was 5'11"-6' tall, with a thick build and wearing a dark blue uniform. This officer stood five or six feet away from the taxi cab and surveyed PO Donato and PO Vazquez's actions.

PO Donato then asked § 87(2)(b) to raise his arms upwards and patted down his body. PO Donato touched § 87(2)(b)'s torso, beginning with his collarbone and also placed his hands inside of § 87(2)(b)'s pants and coat pockets. § 87(2)(b) asked PO Donato why he was being searched and PO Donato replied "That's because I feel something on you that I feel is threatening me and I have to see what it is." PO Donato recovered keys, a wallet and Blistex in § 87(2)(b)'s left-side coat pocket, which § 87(2)(b) believes PO Donato placed on top of the taxi. § 87(2)(b) could not recall what he had in his right-side coat pocket. The search took place for less than a minute.

§ 87(2)(b) was searched by PO Vazquez while § 87(2)(b) was being searched by PO Donato and as such, § 87(2)(b) could not see or describe that search. PO Vazquez informed § 87(2)(b) that they were being searched because "Something happened to a cab driver somewhere else."

PO Donato then asked the three civilians where they were coming from and where they were going. § 87(2)(b) responded that they were going to drop § 87(2)(b) off on the corner of the block and continue driving to § 87(2)(b)'s residence where he and his girlfriend would exit the cab. PO Donato asked § 87(2)(b) if he had ever been arrested before and when § 87(2)(b) refused to answer this question, PO Donato threatened to arrest him for failure to identify himself. § 87(2)(b) disputed this threat, stating that he had already provided his driver's license to him.

PO Donato then directed § 87(2)(b) and § 87(2)(b) to return into the taxi and they complied with that request. PO Donato then returned to the vehicle, handed § 87(2)(b) all three identification cards through the open window, told them to leave and the cab driver left the incident location.

Victim: § 87(2)(b)

- § 87(2)(b) is a black man who was § 87(2)(b) old at the time of the incident.
- § 87(2)(b) was friends with § 87(2)(b) at the time of this incident.

CCRB Testimony:

§ 87(2)(b) provided a telephone statement to the CCRB on January 25, 2013 (encl. 5B), § 87(2)(g)

When the civilians asked why they were being pulled over, PO Donato and PO Vazquez stated that it was for the cab driver's safety due to an influx of robberies in the area. The officers searched § 87(2)(b) and recovered brass knuckles on him. The officers asked § 87(2)(b) if he had anything on him and § 87(2)(b) informed them that he had a knife in his possession. Additionally, § 87(2)(b) indicated that there were five or six officers at the scene of the incident.

During a follow up telephone call made to § 87(2)(b) on March 27, 2014, § 87(2)(b) § 87(2)(b) alleged that PO Donato and PO Vazquez frisked him and patted his pants pockets. § 87(2)(b) § 87(2)(b) further stated that either PO Donato or PO Vazquez placed their hands inside of his pants pockets. § 87(2)(b) § 87(2)(g) initially stated that the officers asked him if he had anything on him and he informed them that he had a knife and was searched thereafter, however he later stated that he did not inform the officers that he had a knife on him.

Victim: § 87(2)(b)

- § 87(2)(b) *is a black woman who was § 87(2)(b) old at the time of the incident.*
- § 87(2)(b) *was dating § 87(2)(b) at the time of this incident.*

CCRB Testimony:

§ 87(2)(b) provided a telephone statement to the CCRB on February 6, 2013 (encl. 5C), which was generally consistent with that of § 87(2)(b). She stated that during the vehicle stop, PO Donato and PO Vazquez searched § 87(2)(b) and § 87(2)(b) and went inside of their pockets.

Attempts to Contact Civilians:

The undersigned investigator called § 87(2)(b) on January 30, February 1, 4, and 6, 2013 and voice messages were left after each call. The undersigned investigator established contact with § 87(2)(b) on February 6, 2013 and she scheduled an appointment at the CCRB for February 15, 2013, which she subsequently missed. A please call letter on January 30, 2013 and a missed appointment letter on February 15, 2013 were mailed to § 87(2)(b). These letters were additionally mailed to § 87(2)(b)'s alternate address on March 14, and 21, 2013. The undersigned investigator called § 87(2)(b)'s alternate telephone number on March 18, and April 1, 2013.

The undersigned investigator called § 87(2)(b) on January 25, 2013 and he scheduled an appointment at the CCRB for January 30, 2013. § 87(2)(b) missed that appointment and a missed appointment letter and please call letters were mailed to him on January 31, and February 4, and 12, 2013. The undersigned investigator additionally called § 87(2)(b) on February 1, 4, 6, and 12, 2013 and voice messages were left after each call.

As of the date of this report, neither § 87(2)(b) nor § 87(2)(b) has contacted the undersigned investigator in order to reschedule their interviews.

The undersigned investigator conducted a Department of Motor Vehicle search for the license plate number of the cab in which § 87(2)(b) and § 87(2)(b) were occupants and mailed two please call letters to the address listed for the driver of that vehicle on February 6, and 13, 2014. The complete name of that individual was not furnished as a result of

this search. Neither of those letters have been returned to the CCRB by the United States Postal Service as of the date of this report.

The Taxi and Limousine Commission of the City of New York provided the undersigned with the name and address of the company for which the witness was working at the time and date of the incident, § 87(2)(b) in the Bronx. A subpoena requesting that witness' contact information was sent to that agency on February 19, 2014 and it was returned to the CCRB on March 12, 2014 by the United States Postal Service with the following message: "Return to sender, not deliverable as addressed". The undersigned investigator telephonically contacted an employee of § 87(2)(b), "§ 87(2)(b)" on March 3, 2014, who stated that she had received the letter that had been mailed to the agency and indicated that an e-mail be sent to her requesting the witness' contact information. An e-mail and a letter with that request were mailed to § 87(2)(b) on March 3, 2014.

The undersigned investigator called § 87(2)(b) on March 27, and 28, 2014 and voice messages were left after each call in order to determine if that company participates in the NYPD's Taxi Robbery Inspection Program. As of the date of this report, the CCRB has not received the name or any contact information for the witness of this incident and has not been contacted by an employee of § 87(2)(b) in order to determine if that company participates in the aforementioned program.

NYPD Statements:

Subject Officer: PO ANTHONY DONATO

- *PO Donato is a white man who was § 87(2)(b) old at the time of the incident. He is 5'11" tall, weighs 250 pounds, with brown hair and black eyes.*
- *PO Donato was assigned to Robbery Conditions Auto, from 11:15 p.m. on December 2, 2012 to 7:50 a.m. on December 3, 2013, in uniform and partnered with PO David Vazquez.*

Memo Book:

PO Donato made the following entry in his memo book on the date of the incident (encl.7C-7E):

"02:39: Taxi stop speed- § 87(2)(b) Mount Hope + Concrs.- Occupants drinking- Brass knuckles on person front R pocket. § 87(2)(b) § 87(2)(b) 02:46: 10-93Q 10-91 W/A.."

Stop, Question and Frisk Report

PO Donato prepared a Stop, Question, and Frisk report for § 87(2)(b) (encl.7A-7B). He noted the time of the stop as 2:39 a.m. and the duration of the stop as ten minutes. Under the section labeled circumstances which led to stop, beneath the suspects' actions section, PO Donato checked off "actions indicative of engaging in drug transaction" and "Other-Weapon". PO Donato listed that the reason for the frisk was that a violent crime was suspected and that there was a hard object present. Additionally, the search basis and reason for the search was documented as that there was a hard object present.

CCRB Statement:

PO Donato was interviewed at the CCRB on January 23, 2014 and provided the following testimony (encl. 7F-7H). At the time of his interview, the undersigned investigator was not in receipt of the Stop, Question and Frisk report completed in regards to this incident.

During the summer of 2012, there was a rash of gunpoint taxi robberies in the vicinity of the incident location, the Grand Concourse and Mount Hope Place.

On December 3, 2012, at 2:39 a.m. PO Donato was assigned to Robbery Conditions Auto and stopped a taxi in the vicinity of Mount Hope Place and the Grand Concourse for speeding. PO Donato does not know how fast the vehicle was driving, but knows that it was travelling fast enough to give him probable cause to stop it. PO Donato could not recall who decided to stop that vehicle.

Both PO Donato and PO Vazquez exited the patrol vehicle; however PO Donato could not recall where they were situated once they exited. PO Donato did not know if any additional officers were present at the location. PO Donato could not recall who interviewed the taxi driver and who served as the backup officer. PO Donato could not recall how many civilians were inside of the car or what their demeanor was. PO Donato observed the occupants to be drinking alcohol; however he was unable to elaborate on such during his interview because he did not recall this incident. PO Donato could not recall who asked the occupants to exit the vehicle or if the officers took the civilians' identification cards.

PO Donato stated that he did not recall if he patted § 87(2)(b)'s body, including his collarbone and torso. Based upon his memo book entry, PO Donato stated that he searched § 87(2)(b) because he observed that he had a bulge which he described as a large, hard, heavy object that appeared to be a weapon in his right front pocket; however PO Donato stated that he did not know if he placed his hands inside of § 87(2)(b)'s pockets. PO Donato searched § 87(2)(b) for the hard object and recovered brass knuckles. § 87(2)(b) did not inform PO Donato that he had brass knuckles on his person before this. He stated that brass knuckles are approximately the size of a normal fist, an inch and a half to two inches in width and four or five inches long, with sharp ridges and a loophole for each finger. PO Donato believed that the size of § 87(2)(b)'s bulge was the size of brass knuckles.

PO Donato prepared a Stop, Question and Frisk report for § 87(2)(b) and informed the occupants of the vehicle of their infraction of Penal Law 265: Brass knuckles on person and having an open alcoholic container. He additionally warned the driver of the vehicle about his speeding violation. PO Donato has had other taxi stops where he has recovered brass knuckles. He recovers brass knuckles once every other day during his tour of duty. He could not recall if he interacted with any additional civilians in the vehicle.

PO Donato did not see any purses being searched within the taxi. He did not see any additional civilians being searched. PO Donato did not threaten to arrest § 87(2)(b).

Subject Officer: PO DAVID VAZQUEZ

- *PO Vazquez is a Hispanic man who was § 87(2)(b) old at the time of the incident. He is 5'7" tall, weighs 194 pounds, with black hair and brown eyes.*
- *PO Vazquez worked the same tour and assignment as PO Donato on the date of the incident.*

Memo Book:

PO Vazquez made the following memo book entry on the date of the incident (encl. 8A-8C):

"02:45: 10-93Q-250 10-91 @ Grandconc. + Mt. Hope pl."

CCRB Testimony:

PO Vazquez was interviewed at the CCRB on January 30, 2014 (encl. 8D-8F). § 87(2)(g)

PO Vazquez stated that on the midnight tour, sergeants mandate patrol cars to make vehicle stops, typically five. Any patrol vehicle assigned to the midnight tour, not necessarily the Robbery Auto assignment, is charged with stopping vehicles. The officers stop taxis because at the time of the incident, there were many taxi robberies and some resulted in fatalities. During

the mandated taxi stops, officers have to check to see if there are any weapons inside of the vehicle and ensure that the patrons have enough funds to pay their fare.

PO Vazquez stopped several vehicles on the date of the incident. During those instances, PO Vazquez and PO Donato asked the passengers what their destinations were and asked the driver where they picked up the passengers.

On December 3, 2012 at 2:39 a.m., PO Vazquez stopped a vehicle at the Grand Concourse and Mount Hope Place. PO Vazquez could not recall if he stopped any vehicles on the date of the incident in which the occupants were intoxicated. PO Vazquez stated that he would definitely remember if he had asked occupants to exit their vehicle. PO Vazquez did not have noted in his memo book entry how many passengers were within the vehicle. He did not stop any taxi cabs on that date from which contraband, including brass knuckles, was recovered.

PO Vazquez was presented with UF-250 numbered § 87(2)(b), which was completed by PO Donato. The officer that conducts the stop and takes the civilian's identification completes that form. PO Vazquez could not attest to why the circumstances leading to the stop were listed as "actions indicative of engaging in drug transaction" and explained that "suspects actions-weapon" was checked off because by having a sticker on the vehicle that indicates that it is enrolled in the Taxi Robbery Inspection Program, this would indicate that the vehicle could be pulled over and searched for weapons, in order to ensure that the individuals inside of the cab are safe. PO Vazquez could not recall if the vehicle that was stopped was enrolled in the Taxi Robbery Inspection Program. PO Vazquez could not recall why the reason for the frisk was indicated as "Violent crime suspected" and "Other-hard object". He additionally could not recall why the search basis was listed as "Reason for search- Hard Object."

PO Vazquez could not recall searching or frisking any men during this cab stop. He did not search a woman's purse that was within the taxi cab during the stop and did not recall his partner doing such. PO Vazquez did not threaten to arrest any individuals during the stop and could not recall if PO Donato did such. On the Grand Concourse, Webster Avenue and within the confines of the 46th Precinct, there have been many robberies, however PO Vazquez could not recall if there were any open robbery patterns at the time of the incident.

PO David Blumenberg from the 46th Precinct was also interviewed for this case on January 30, 2014 (encl. 9A-9E). PO Blumenberg was interviewed at the CCRB because he was assigned to “Taxi checks” in the 44th Precinct at the time and on the date of the incident. His interview is not summarized here because the investigation later determined that he was not present for this incident. § 87(2)(g)

According to the 46th Precinct Roll Call for December 3, 2012, tour 1, PO Donato and PO Vazquez were partnered and assigned to the Robbery Auto assignment. PO Blumenberg worked the same tour and was assigned to the Taxi Check assignment (encl. 10A-10H).

- § 87(2)(b) and § 87(2)(b) have not filed a Notice of Claim with the City of New York as of March 28, 2014 with regard to the incident (encl.15C).

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
 - [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
 - [REDACTED]
 - [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]

- This is the first CCRB complaint involving § 87(2)(b) (encl. 2C).
- § 87(2)(b) has filed the following CCRB complaint (encl. 2A):
 - § 87(2)(b)
- § 87(2)(b) has filed the following CCRB complaint (encl. 2B):
 - § 87(2)(b)

CCRB – Confidential

PO Anthony Donato has been a member of the service for three years and there are three substantiated allegations against him (encl. 1A-1B).

In case number 201108564 the Board recommended charges for three abuse of authority allegations and the NYPD issued him a command discipline for one of those charges and took no disciplinary action regarding the two additional allegations.

PO David Vazquez has been a member of service for seven years and there are no substantiated CCRB allegations against him (encl. 1C).

Conclusion

Identification of Subject Officers

PO Donato and PO Vazquez documented this vehicle stop in their memo book entries. The third officer that § 87(2)(b) alleged was present during this incident remained unidentified throughout the course of the investigation. PO Donato did not know if any additional officers were present at the incident location and PO Vazquez did not recall this incident. Neither of these officers documented in their memo book entries that additional officers arrived at the location. Furthermore, the roll call for the time of the incident did not list any additional officers that worked with PO Donato and PO Vazquez.

Allegations Not Pleaded:

§ 87(2)(b) alleged that PO Donato searched § 87(2)(b)'s handbag while they and § 87(2)(b) were standing outside of the cab, with their backs facing that vehicle. § 87(2)(b) did not witness the search of such and believes that her handbag was searched because § 87(2)(b)'s personal belongings therein were not in the manner in which she had originally placed them. § 87(2)(b) and § 87(2)(b) did not raise this allegation. § 87(2)(g)

§ 87(2)(b) alleged that PO Donato and PO Vazquez frisked him and patted his pants pockets. § 87(2)(b) further stated that either PO Donato or PO Vazquez placed their hands inside of his pants pockets. § 87(2)(b) § 87(2)(g) initially stated that the officers asked him if he had anything on him and he informed them that he had a knife and was searched thereafter, however he later stated that he did not inform the officers that he had a knife on him. § 87(2)(g)

Investigative Findings and Recommendations:

Allegation A-Abuse of Authority: PO Anthony Donato stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.

Allegation B- Abuse of Authority: PO David Vazquez stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.

Allegation C-Abuse of Authority: PO Anthony Donato stopped § 87(2)(b) and § 87(2)(b)

Allegation D-Abuse of Authority: PO David Vazquez stopped § 87(2)(b) and § 87(2)(b)

Allegation G- Abuse of Authority: PO David Vazquez searched § 87(2)(b)

Allegation H- Abuse of Authority: PO Anthony Donato threatened to arrest § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) alleged that the cab in which they were passengers was stopped by a police vehicle. § 87(2)(b) and § 87(2)(b) stated that the vehicle

was driving at a speed of approximately 25 miles per hour before the vehicle was pulled over. § 87(2)(b) stated that PO Vazquez searched § 87(2)(b). Both § 87(2)(b) and § 87(2)(b) stated that the officers informed them that the vehicle was stopped because there was a pattern of vehicle robberies in the area. § 87(2)(b) and § 87(2)(b) alleged that PO Donato and PO Vazquez requested that they exit the vehicle, without explaining the reason for such, which they complied with. § 87(2)(b) alleged that PO Donato threatened to arrest him for failing to identify himself. Furthermore, § 87(2)(b) and § 87(2)(b) stated that PO Donato and PO Vazquez searched § 87(2)(b). § 87(2)(b) stated that PO Vazquez patted his pants pockets, and either PO Donato or PO Vazquez reached inside of his pants pocket and recovered a 3 or 4 inch knife. § 87(2)(b) § 87(2)(g) initially stated that the officers asked him if he had anything on him and he informed them that he had a knife and was searched thereafter, however he later stated that he did not inform the officers that he had a knife on him. § 87(2)(b) could not describe that search because it occurred while PO Donato searched him and he was not paying attention to § 87(2)(b)'s search.

PO Donato stated that he stopped the cab because it was speeding, however he could not recall the speed at which that vehicle was driving. PO Donato indicated that around the time of the incident, there had been many cab robberies. Based upon his memo book entry, PO Donato stated that he observed a civilian that had an open alcoholic beverage inside of the vehicle; however he did not recall this during his interview. PO Donato could not recall if he or if PO Vazquez asked the civilians to exit the cab. PO Donato stated that § 87(2)(b) was the only civilian that he searched, he did not recall if any additional civilians were searched and he did not threaten to arrest § 87(2)(b) during the vehicle stop. PO Vazquez did not recall this vehicle stop or if he searched § 87(2)(b) however he stated that on the midnight tour, sergeants mandate patrol cars to make vehicle stops, typically five. PO Vazquez added that any patrol vehicle assigned to the midnight tour, not necessarily the Robbery Auto assignment, is charged with stopping vehicles. He stated that officers with this assignment stop taxis because at the time of the incident, there were many taxi robberies in the vicinity of the incident location and some resulted in fatalities.

§ 87(2)(g)

Allegation E- Abuse of Authority: PO Anthony Donato frisked § 87(2)(b)

Allegation F- Abuse of Authority: PO Anthony Donato searched § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) alleged that PO Donato searched § 87(2)(b) by placing his hands inside of § 87(2)(b)'s clothing pockets. § 87(2)(b) indicated that PO Donato touched his torso, beginning with his collarbone and continuing into his coat and pants pockets. § 87(2)(b) stated that PO Donato recovered his keys, wallet and Blistex in his left-side coat pocket; however he stated that he could not recall what was in his right-side coat pocket. Additionally, § 87(2)(b) indicated that PO Donato recovered brass knuckles after he searched § 87(2)(b).

PO Donato stated that he did not recall if he patted § 87(2)(b)'s body, including his collarbone and torso. Based upon his memo book entry, PO Donato stated that he searched § 87(2)(b) because he observed that he had a bulge which he described as a large, hard, heavy object that appeared to be a weapon in his right front pocket; however PO Donato stated that he did not

know if he placed his hands inside of § 87(2)(b)'s pockets. PO Donato stated that he searched § 87(2)(b) for the hard object and recovered brass knuckles. PO Donato stated that brass knuckles are approximately the size of a normal fist, an inch and a half to two inches in width and four or five inches long, with sharp ridges and a loophole for each finger. PO Donato believed that the size of § 87(2)(b)'s bulge was the size of brass knuckles; however he could not see the loopholes of such through his clothing. PO Donato could not recall further details about his search of § 87(2)(b). PO Vazquez did not recall this incident.

According to Patrol Guide section 212-11, an officer may frisk an individual for weapons when he reasonably suspects he or others are in danger of physical injury, and an officer may search the individual if the frisk reveals object which may be a weapon. Only that portion of the suspect's clothing where object was felt may be searched. (encl. A-C). Penal Law 265.01 indicates that possession of brass knuckles constitutes criminal possession of a weapon in the fourth degree and is a misdemeanor (encl. D-L).

§ 87(2)(g)

§ 87(2)(g)

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date